

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

U.S. DISTRICT COURT
EASTERN DISTRICT - WI
FILED

2022 MAY 13 P 3:29

CLERK OF COURT

MARK RICE, a Wisconsin
resident,

Plaintiff,

v.

POLI-TECH SOLUTIONS, LLC
a Florida Limited Liability Corporation,
(Internet domain name owner);
and **www.ivot.com**, (Internet domain
name)

Defendants,

CIVIL ACTION

FILE NO. 21-C-1174

JURY TRIAL
DEMANDED

**AMENDED BRIEF TO SUPPORT PLAINTIFF'S MOTION FOR ENTRY
OF DEFAULT JUDGMENT**

COMES NOW Plaintiff Mark Rice ("Rice") file this Plaintiff Mark Rice's
Amended Brief to support Plaintiff's Motion for Entry of Default Judgment and
shows this Honorable Court as follows:

STATEMENT OF FACTS

As noted by the Court's ORDER dated April 29, 2022, the plaintiff has not been able to identify the person or entity responsible for registering iVote.com. Rice has used due diligence to find the registrant to no avail. As part of that effort, the plaintiff searched the domain name's "WHOIS" record and found that the domain name is registered to "GoDaddy", used to hide a registrant's identify. ("WHOIS search results for: iVote.com). (Rice Aff. ¶ 4, Exhibit 2). "WHOIS" is a database consisting of, inter alia, a registrant's name and address. See, e.g., CNN L.P. v. CNNews.com, 162 F. Supp. 2d 484, 488 (E.D. Va. 2001), aff'd in part and vacated in part, 56 F. App'x 599 (4th Cir. 2003).

Rice also searched the "WHOIS" search results from the website "who.godaddy.com," which is an example of an accredited registrar. According to that website, "WHOIS database is a searchable list of every single domain currently registered in the world...The Internet Corporation of Assigned Names and Numbers (ICANN) requires accredited registrars...to publish the registrant's contact information, domain creation and expiration dates and other information in the WHOIS listing as soon as a domain is registered. (Rice Aff. ¶ 3, Exhibit 1).

Defendant Poli-Tech Solutions, LLC ("Poli-Tech") used the domain name ivote.com and used the hidden mechanism of being an unknown registrant to

anonymously register the domain name with the bad faith intent to profit or otherwise trade on Plaintiff's rights in his mark, iVote. Rice has made efforts to notify possible defendant Poli-Tech in this case, but no defendant has appeared. Rice acknowledges the Court's direction to file an In Rem action against the domain iVote and will proceed accordingly. To assure this Court that Rice has pursued all avenues to connect with the domain owner, if in fact, said domain owner is separate from the claims already made by Poli-Tech, Rice used three (3) contact resources as provided by Godaddy to reach the owner of the domain.

On May 2, 2022, I submitted a "Domain Holder Contact Request Form" on the Godaddy Whois link for the domain iVote to the "Registrant" and gave the reason for contact as "Domain name or content is infringing on a trademark or violating local laws or regulations". I never received any response back from the "Registrant" of the domain iVote. (Rice Aff. ¶ 5, Exhibit 3). On May 2, 2022, I submitted a "Domain Holder Contact Request Form" on the Godaddy Whois link for the domain iVote to the "Technical" and gave the reason for contact as "Domain name or content is infringing on a trademark or violating local laws or regulations". I never received any response back from the "Technical" of the domain iVote. (Rice Aff. ¶ 6, Exhibit 4). On May 2, 2022, I submitted a "Domain Holder Contact Request Form" on the Godaddy Whois link for the domain iVote to the "Admin" and gave the reason for contact as "Domain name or content is

infringing on a trademark or violating local laws or regulations”. I never received any response back from the “Admin” of the domain iVote. (Rice Aff. ¶ 7, Exhibit 5).

In a continual good faith effort to reach Poli-Tech, on February 4, 2022, I mailed via US Priority Mail the “Amended Motion for Entry of Default Judgment, Affidavit in Support of Amended Motion for Entry of Default Judgment, Amended Proposed Default Judgement and Amended Brief in Support Plaintiff’s Amended Motion for Entry of Default Judgment”. The US Priority Mail envelope with the “Amended Motion for Entry of Default Judgment, Affidavit in Support of Amended Motion for Entry of Default Judgment, Amended Proposed Default Judgement and Amended Brief in Support Plaintiff’s Amended Motion for Entry of Default Judgment” was returned with the Black Marker stating, “Not At This Address”. (Rice Aff. ¶ 8-9, Exhibit 6-7). I paid \$8.95 usps.com online to ship the Priority Envelope to the address: Charles Kirkpatrick, Poli-Tech Solutions LLC, 118 Lake Emerald Dr, Apt 401, Oakland Park, Fl. 33309-6277. (Rice Aff. ¶ 10, Exhibit 8).

The plaintiff contends that his well-pled allegations and the defendant’s failure to respond make entry of default judgment proper.

Poli-Tech Acted in Bad Faith

1. The domain www.ivote.com was registered without my consent. (Rice Aff. ¶ 11).
2. Poli-Tech claiming ownership of the www.ivote.com Domain Name has no prior use of iVote in connection with the bona fide offering of any goods or services. (Rice Aff. ¶ 12).
3. Poli-Tech claiming ownership of the www.ivote.com Domain Name has made no bona fide non-commercial or fair use of ivote in a site accessible under the domain name. (Rice Aff. ¶ 13).
4. Poli-Tech claiming ownership of the www.ivote.com Domain Name did not have reasonable grounds to believe that the use of ivote was a fair use or otherwise lawful. (Rice Aff. ¶ 14).

DAMAGES

The filing fee to the Court was \$402 and the Service of Process was \$60. (Rice Aff. ¶ 15). These are actual costs. Whereas the Court has a certain discretion on “statutory damages” towards the bad faith of Poli-Tech in using iVote and as described in the previous briefs to the Court, it is highly unlikely that Rice will recover anything relating to this action from an LLC that has remained incognito throughout this litigation. Rice will proceed with the “In Rem” action via the jurisdiction that handles such filings. Wherefore, Rice requests the Court to grant Rice’s Motion for Default Judgment in the amount of actual damages of \$462 and for the Court to award “Statutory Damages” if it so determines based on Rice’s pleadings.

Respectfully Submitted this 12th day of May , 2022.

/Mark Rice/

Mark Rice

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